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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 VICTOR S. R.,

12 Plaintiff,

13 v.

14 KILOLO KIJAKAZI, Acting  
15 Commissioner of Social Security,

16 Defendant.  
17

Case No. 2:22-cv-09093-HDV (E)

**ORDER ACCEPTING FINDINGS AND  
RECOMMENDATIONS OF UNITED  
STATES MAGISTRATE JUDGE**

18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the pleadings, the  
19 records on file, and the Report and Recommendation (“Report”) of the United  
20 States Magistrate Judge. Further, the Court has engaged in a *de novo* review of  
21 those portions of the Report to which objections have been made.

22 The Report recommends that the Commissioner’s decision denying disability  
23 benefits be reversed in part and that this case be remanded for further administrative  
24 proceedings. (ECF No. 27.) Specifically, the Report found that the Administrative  
25 Law Judge (“ALJ”) erred in assessing whether Plaintiff’s alleged carpal tunnel  
26 syndrome was severe, and that the error was not harmless. (*Id.* at 4, 7.)  
27 Defendant’s Objections to the Report (ECF No. 28) do not warrant a change to the  
28 Magistrate Judge’s findings or recommendations, for the following reasons.

1 Defendant objects that the error in assessing Plaintiff's alleged carpal tunnel  
2 syndrome as not severe was harmless. (ECF No. 28 at 4.) According to Defendant,  
3 "[b]ecause step two was decided in Plaintiff's favor, '[h]e could not possibly have  
4 been prejudiced.'" (*Id.* (quoting *Buck v. Berryhill*, 869 F.3d 1040, 1049 (9th Cir.  
5 2017))). But this Objection ignores *Buck*'s recognition of the agency's mandate  
6 that, for the residual functional capacity assessment applicable at steps four and  
7 five, "the adjudicator must consider limitations and restrictions imposed by all of an  
8 individual's impairments, even those that are not 'severe.'" *Buck*, 869 F.3d at 1049  
9 (quoting Social Security Ruling ("SSR") 96-8P, 1996 WL 374184, at \*5). "Even  
10 though a non-severe 'impairment[] standing alone may not significantly limit an  
11 individual's ability to do basic work activities, it may—when considered with  
12 limitations or restrictions due to other impairments—be critical to the outcome of a  
13 claim.'" *Carmickle v. Commissioner, Social Sec. Admin.*, 533 F.3d 1155, 1164 (9th  
14 Cir. 2008) (alteration in original) (quoting SSR 96-8P, 1996 WL 374184, at \*5).  
15 As discussed in the Report, the residual functional capacity assessment did not  
16 include any carpal tunnel syndrome-related limitations, even though several sources  
17 of evidence, including opinions from state agency review physicians, demonstrated  
18 limitations. (ECF No. 27 at 7.) And as the Report further discussed, the ALJ  
19 discounted the state agency review physicians' opinions by mischaracterizing the  
20 record. (*Id.* at 8.)

21 Defendant objects that the Report failed to explain how the ALJ's residual  
22 functional capacity assessment for a restricted range of light work, which alone is  
23 an extremely restrictive limitation, failed to accommodate Plaintiff's carpal tunnel  
24 syndrome. (ECF No. 28 at 5.) But as the Report correctly explained, the ALJ's  
25 findings did not reflect any accommodation for carpal tunnel syndrome. (ECF No.  
26 27 at 7.) First, the ALJ's residual functional capacity assessment did not include  
27 any limitations related to carpal tunnel syndrome. (ECF No. 11-3 at 23.) Second,  
28 each of the three occupations that the ALJ found suitable for Plaintiff at step five

1 (*id.* at 29) required frequent use of the hands and wrists. *See* Dictionary of  
2 Occupational Titles (“DOT”) 295-367-026, 1991 WL 672594 (Storage facility  
3 rental clerk: frequent reaching and handling); DOT 209.687-026, 1991 WL 671813  
4 (Mail clerk: frequent reaching, handling, and fingering); DOT 208.685-010, 1991  
5 WL 671753 (Collator operator: frequent reaching, handling, and fingering). Thus,  
6 as the Report reasonably concluded, the ALJ’s apparent failure to account for  
7 competent evidence of the effects of carpal tunnel syndrome throughout the entirety  
8 of the five-step evaluation was not “inconsequential to the ultimate nondisability  
9 determination.” (ECF No. 27 at 6.)

10 In sum, Defendant’s objections are overruled. The Court accepts and adopts  
11 the Magistrate Judge’s Report and Recommendation.

12 IT IS ORDERED that (1) the decision of the Social Security Administration  
13 is reversed in part; and (2) the matter is remanded for further administrative action  
14 consistent with the Report and Recommendation.

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16 DATED: 12/7/23



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19 HERNAN D. VERA  
20 UNITED STATES DISTRICT JUDGE  
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